

REMARKS/ARGUMENTS

Claims 11-20 are new.

Support for amended Claim 1 is found, for example, at originally filed Claim 1 and specification page 10, paragraph 39, Example 1. Support for new Claims 11-15 is found, for example, at specification page 6, paragraph 25, and at originally filed Claim 5. Support for new Claims 16-17 is found, for example, at originally filed Claim 4. Support for new Claims 18-20 is found, for example, at specification page 5, paragraph 22.

No new matter is added.

The specification objection is obviated by submission, along with this paper, of a substitute Abstract.

The objection to Claim 2 is obviated by replacement of the term “claim1” with the term “claim 1.”

The indefiniteness rejection of Claims 1-8 is respectfully traversed. In Claim 1, the term “ordinary temperature” is replaced with the term “room temperature.” As described, *supra*, support for this amendment is found at specification page 10, paragraph 39, Example 1, wherein the rosin, that is the oily material, is a solid at room temperature. Claim 5 is amended to remove the term “ordinary temperature.” Further, Claims 1 and 5 are amended to remove the term “major component.” Finally, the term “it” is removed from Claim 1. Applicants submit the claim amendments described, *supra*, moot the indefiniteness rejection. Withdrawal of the indefiniteness rejection is respectfully requested.

The rejection of Claims 1-5 and 7-8 as being anticipated by Lorenz is respectfully traversed. Present Claim 1 is drawn to a composition. The composition consists essentially of an oily material, which is solid at room temperature, and a water-soluble organic medium. The composition dissolves or disperses in water. Applicants note the transitional phrase

“ ‘consisting essentially of’ limits the scope of a claim to the specified materials or steps and those that do not materially affect the basic and novel characteristics of the claimed invention” (emphasis added, see M.P.E.P. § 2111.03). As described at specification page 2, paragraph 7, “it is an object [of the present invention] to provide a hair cosmetizer, in which the effects, such as gloss and moisture, sustain for a prolonged period of time and at the same time which can be coated on hair substantially uniformly.” Thus, the composition of present Claim 1 increases the gloss and moisture of hair.

In contrast to the composition of present Claim 1, the composition of Lorenz requires inclusion of “a powder comprising at least one solid compound exerting bleaching activity upon application on human hair or at least one direct hair dye” (emphasis added, see the Abstract of Lorenz). Thus, Lorenz’s composition must bleach or dye hair. Adding a compound that must bleach or dye hair would “materially affect the basic and novel characteristics” of the composition of present Claim 1, the application of which results in improved hair gloss and moisture, but does not change the color of the hair to which the composition is applied. Example 11 of Lorenz, cited by the Office in the Official Action at page 10, includes both “Blue dyestuff” and “Magnesium peroxide.” Accordingly, Lorenz cannot anticipate present Claim 1 and the claims depending therefrom. Withdrawal of the anticipation rejection is respectfully requested.

The obviousness rejection of Claims 1-8 as being unpatentable in view of Lorenz and Mueller is respectfully traversed. As described *supra*, Lorenz does not describe or suggest the exclusion of a hair dye or hair bleach, and these hair color changing compounds are excluded from present Claim 1 and the claims depending therefrom. Further, because Lorenz requires the presence of a hair dye or hair bleach, Lorenz “teaches away from” the exclusion

of these hair color changing compounds. Thus, Lorenz does not describe or suggest, and in fact “teaches away from,” at least one feature of present Claim 1 and the claims depending therefrom. Mueller, whom the Office relies upon to teach that “abietic acid...is a natural emulsifier which may be used in hair compositions” (see page 11 of the Official Action), does not remedy the deficiencies of Lorenz. Withdrawal of the obviousness rejection is requested.

Applicants request rejoinder of the withdrawn method claims under M.P.E.P. § 821.04.

Applicants submit the present application is now in condition for allowance. Early notification to this effect is earnestly solicited.

Respectfully submitted,

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